



City of Loma Linda Official Report

Karen Gaio Hansberger, Mayor
Floyd Petersen, Mayor pro tempore
Robert Christman, Councilmember
Stan Brauer, Councilmember
Robert Ziprick, Councilmember

COUNCIL AGENDA: September 14, 2004

TO: City Council

VIA: Dennis R. Halloway, City Manager

FROM: Special Counsel

SUBJECT: Council Bill #O-2004-8 – Amending the Redevelopment Plan pursuant to SB 1045 to extend the time limit on the effectiveness of the Redevelopment Plan one (1) year and the period for payment of indebtedness and receipt of property tax one (1) year

RECOMMENDATION

It is recommended by staff and special counsel, Mark Huebsch, that the Loma Linda Redevelopment Agency of the City of Loma Linda ("Agency"), through the Loma Linda City Council ("City Council") as the legislative body of the Agency, consider and adopt an ordinance pursuant to SB 1045 that extends the effectiveness of the existing redevelopment plans for Project Area No. 1, as amended, and Project Area No. 2, as amended.

Introduce Council Bill #O-2004-8 on First Reading and set the Second Reading for September 28.

BACKGROUND

The California Legislature adopted Senate Bill 1045 (chaptered September 2, 2003) ("SB 1045"), which allows a community development and/or redevelopment agency that is required to make payments to the Educational Revenue Augmentation Fund ("ERAF") to amend its redevelopment plan(s) to:

- extend the time limit on the effectiveness of the redevelopment plan *by one year*; and
- extend the period for payment of indebtedness and receipt of property taxes *by one year*.

Pursuant to Section §33333.6(e)(2)(C), as amended by SB 1045, the city council, as the agency's legislative body, may adopt such ordinance:

- without compliance with normal plan amendment procedures; and
- without the requirement to make statutory pass-through payments to affected taxing entities required by Health and Safety Code Section 33607.7 *during the extended year*.¹

¹ "... In adopting an ordinance pursuant to this subparagraph, neither the legislative body [City Council] nor the agency [CDA] is required to comply with Section 33354.6 or Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans, including, but not limited to, the requirement to make the payment to affected taxing entities required by Section 33607.7 [during the extended year.]" §33333.6(e)(2)(C)

Background on SB 1045

During both 1992 and 1993 sessions, the Legislature established the ERAF in each county and directed local government entities, including redevelopment agencies, to transfer a portion of the property taxes to this fund to be allocated to schools throughout the county. This new income reduced the amount of state aid to school districts and community college districts. In 1992, the shift of property taxes from redevelopment agencies to the ERAF amounted to \$205 million. In both fiscal years 1993-94 and 1994-95, redevelopment agencies transferred \$65 million to the ERAF. In fiscal year 2002-03, redevelopment agencies were required to pay \$75 million to the ERAF.

SB 1045 was a budget trailer bill that provided for a statewide transfer of \$135 million from redevelopment agencies to the ERAF for fiscal year 2003-04. In pertinent part SB 1045:

- Required a redevelopment agency to allocate to the county auditor an amount of revenue, determined in accordance with specified calculations made by the Director of Finance, for deposit in the ERAF. Calculations were available on the CRA website for each redevelopment agency's required payment.
- Authorized a redevelopment agency to defer the payment of a portion of this allocation if that agency found that it was unable, for certain specified reasons, to pay the full allocation, and if the agency adopted a specified resolution.
- If an agency was unable to make the payment, required the city to remit the designated ERAF amount to the county auditor prior to May 10, 2004.
- Allowed a redevelopment agency, subject to CRL Section 33333.6 time limits and ERAF payment obligations, to adopt an ordinance extending the time limit on the effectiveness of the redevelopment plan and the period for payment of indebtedness and receipt of property taxes by one year without requiring the agency to make statutory pass-through payments during that extended year. (Ordinance included with agenda package.)

ANALYSIS

During the 2003-2004 fiscal year, each redevelopment agency must have, prior to May 10, 2004 remitted a specified amount to the county auditor for deposit in the county's ERAF. CRL Section 33681.9(a)(1). The Director of Finance determined the exact amount of the ERAF allocation of each agency according to a statutory formula. CRL Section 33681.9(a)(2). To meet their ERAF obligations, agencies were authorized to use any funds available that were not legally obligated for other uses such as reserve funds, bond proceeds, earned income and proceeds of land sales. Monies held in the Low and Moderate Income Housing Fund as of July 1 of the fiscal year may not be used for this purpose. CRL Section 33681.9(b)(2)(c). If necessary, agencies were also authorized to borrow up to 50% of the amount required to be allocated to the Low and Moderate Income Housing Fund during the 2003-04 fiscal year, unless executed contracts exist that would be impaired by the borrowing. CRL Section 33681.9(b)(1).

Despite the fact that Project Area No. 1 and Project Area No. 2 were merged on September 26, 2000 into a single Merged Project Area, for the purposes of extending redevelopment plan time limitations pursuant to SB 1045, each plan adoption or plan amendment that adds territory within the project area must be examined individually. Therefore, the Agency and City Council may adopt an ordinance that extends the time limitations of Project Area No. 1 (Original Area), Project Area No. 1 (Added Area), and Project Area No.2, respectively.

- **Project Area No. 1 (Original Area):** With respect to the territory originally included by the 1980 establishment of Project Area No. 1 (the "Original Area") an ordinance pursuant to SB 1045 can extend the effectiveness the plan by one year (from the existing time limit of July 15, 2020) to July 15, 2021, and the period for payment of indebtedness and receipt of property taxes (from its current limit of July 15, 2030) by one year to July 15, 2031.

- **Project Area No. 1 (Added Area):** With respect to that territory added to Project Area No. 1 by amendment approved in 1994 (the "Added Area") an ordinance pursuant to SB 1045 can extend the effectiveness the plan by one year (from the existing time limit of December 13, 2024) to December 13, 2025, and the period for payment of indebtedness and receipt of property taxes (from its current limit of December 13, 2039) by one year to December 13, 2040.
- **Project Area No. 2:** With respect to Project Area No. 2 an ordinance pursuant to SB 1045 can extend the effectiveness the plan by one year (from the existing time limit of May 12, 2027) to May 12, 2028, and the period for payment of indebtedness and receipt of property taxes (from its current limit of May 12, 2037) by one year to May 12, 2038.

ENVIRONMENTAL

Not applicable.

FINANCIAL IMPACT

As discussed above, SB 1045 also allows a redevelopment agency, which is required to make ERAF payments pursuant to CRL Section 33681.9, to enact an ordinance extending the time limits on the effectiveness of the redevelopment plan and the period for payment of indebtedness and receipt of property taxes by one year. This ordinance may be adopted without compliance with the normal procedures for redevelopment plan amendments and without the requirement to make the statutory pass-through payments to affected taxing entities required by section 33607.7 during the extended one-year period. While SB 1045 exempts a redevelopment agency from the statutory pass-through payments during the extended year, for pass through contracts, each contract's specific provisions/wording will control the payment obligation, if any, during the extended year.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA,
CALIFORNIA, AMENDING THE REDEVELOPMENT PLAN FOR THE LOMA
LINDA REDEVELOPMENT PROJECT PURSUANT TO HEALTH AND SAFETY
CODE SECTION 33333.2(c)

WHEREAS, the Loma Linda Redevelopment Agency (the "Agency") was established pursuant to the California Community Redevelopment Law (the "Redevelopment Law"), codified in Part 1 of Division 24 of the California Health and Safety Code. The Agency was activated on February 27, 1979, by City Ordinance No. 207. The Project Area consists of three component areas resulting from a series of actions by the City Council of the City, and includes those redevelopment projects and project areas formerly known as Loma Linda Redevelopment Project No. 1 ("Project No. 1") and Loma Linda Redevelopment Project No. 2 ("Project No. 2") as follows: (i) that area included as the project area of Project No. 1 as approved by Ordinance No. 226 adopted by the City Council of the City on July 15, 1980 (the "Original Project Area"); (ii) that area added to the project area of the Project No. 1 by that amendment to Project No. 1 as approved by Ordinance No. 508 adopted by the City Council of the City on December 13, 1994 (the "Project No. 1 Amendment Added Area"); and (iii) that area designated as the project area for Project No. 2 as approved by Ordinance No. 374 adopted by the City Council of the City on May 12, 1987 (the "Project No. 2 Area"). Project No. 1 (including the Original Project Area and the Project No. 1 Amendment Added Area) and Project No. 2 were merged and amended under Ordinance No. 591 adopted by the City Council of the City on September 26, 2000 and the amended redevelopment plan (the "Redevelopment Plan") as approved thereby; and

WHEREAS, the Redevelopment Plan as heretofore amended provides, in part that the Agency shall not repay indebtedness with the proceeds of property taxes received after the following: (i) as to the Original Project Area, July 15, 2030; (ii) as to the Project No. 1 Amendment Added Area, December 13, 2039; and (iii) as to the Project No. 2 Area, May 12, 2037; and

WHEREAS, California Health and Safety Code Section 33333.2(c) as established as an urgency statute under SB 1045, Chapter 260, Statutes of 2003 ("SB 1045") provides in pertinent part:

When an agency is required to make a payment pursuant to Section 33681.9, the legislative body may amend the redevelopment plan to extend the time limits required pursuant to paragraphs (2) and (3) of subdivision (a) by one year by adoption of an ordinance. In adopting this ordinance, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans; and

WHEREAS, the Agency shall make a payment during the 2003-04 fiscal year pursuant to Section 33681.9; and

WHEREAS, the City Council has determined to take advantage of SB 1045 and adopt an ordinance which extends by one (1) year the time limits required pursuant to paragraphs (2) and (3) of subdivision (a) of Section 33333.2 of the California Health and Safety Code as such limits are

Ordinance No.

Page 2

provided under the Redevelopment Plan as to each of the Original Project Area, Project Area No. 2 and the Project No. 1 Amendment Added Area; and

WHEREAS, the enactment of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") pursuant to CEQA Guidelines Section 15378(b)(4) because it is a fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

THE CITY COUNCIL OF THE CITY OF LOMA LINDA, CALIFORNIA, DOES ORDAIN
AS FOLLOWS:

Section 1. The respective times established under the Redevelopment Plan as applicable to each of the Original Project Area, the Project No. 2 Area and the Project No. 1 Amendment Added Area for (i) operating and (ii) for receipt of tax increment revenues, as required pursuant to paragraphs (2) and (3) of subdivision (a) of Health and Safety Code Section 33333.2, as in effect as of the effective date of SB 1045, are each extended by one (1) year.

Section 2. Except as amended herein, the Redevelopment Plan, as it is in effect as to each of the Original Project Area, Project Area No. 2 and the Project No. 1 Amendment Added Area, shall remain in full force and effect according to its terms.

Section 3. All required proceedings and considerations precedent to the adoption of this Ordinance have been regularly taken in accordance with applicable law.

Section 4. The City Clerk is hereby authorized to file a Notice of Exemption with the County of San Bernardino pursuant to CEQA Guidelines Section 15094.

Section 5. The City Clerk is authorized and directed to publish this Ordinance or a summary thereof in the manner provided by law and in accordance with procedures normally taken.

Section 6. Penalties. If any person shall violate any of the provisions of this Ordinance, or fail to comply with any of the mandatory requirements of this Ordinance, he shall be guilty of an infraction. Any person convicted of an infraction under the provisions of a City Ordinance shall be punishable by (1) a fine of not more than one hundred dollars (\$100.00) for a first violation; (2) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same Ordinance within one year and (3) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same Ordinance within one year. Each such person shall be deemed guilty of a separate offense for every day during such portion of which any violation of this Ordinance is committed, continued or permitted by such person, and shall be punishable therefore as provided by this Ordinance.

Section 7. Validity. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such holding or holdings shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Ordinance No.
Page 3

Section 8. Posting. Prior to the expiration of fifteen (15) days from its passage, the City Clerk shall cause this Ordinance to be posted pursuant to law in three (3) public places designated for such purpose by the City Council.

This Ordinance was introduced at the regular meeting of the City Council of the City of Loma Linda, California, held on the ____ day of _____ and was adopted on the ____ day of _____ by the following vote to wit:

Ayes: _____

Noes: _____

Abstain: _____

Absent: _____

Karen Gaio Hansberger, Mayor

ATTEST:

Pamela Byrnes-O'Camb, City Clerk